

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JCF  
CLM

Javier Card,

Petitioner,

vs.

Thomas Griffin, Superintendent Green Haven  
Correctional Facility,

Respondent.

X

No. 1:17-cv-00221 (FB)

~~[PROPOSED]~~ **CONSENT ORDER**

X

Upon all of the proceedings in this Court, and pursuant to the agreement of the parties, IT  
**IS HEREBY ORDERED THAT:**

1. The Amended Petition for Writ of Habeas Corpus on Behalf of an Individual in State Custody (ECE No. 12) of Petitioner, Javier Card, is **GRANTED** only to the extent that the sentence imposed upon the September 5, 1995 judgment of conviction under Kings County Indictment Number 5797/91 is reduced as follows: (a) Petitioner's sentence on his conviction of Murder in the Second Degree (N.Y. Penal Law § 125.25[1]) is reduced to an indeterminate term of imprisonment of twenty-two years to life, and (b) Petitioner's sentence on his conviction of Reckless Endangerment in the First Degree (N.Y. Penal Law § 120.25)—which is an indeterminate term of imprisonment of one and two-thirds to five years—is to run concurrently with his sentence on the murder count,
2. The Amended Petition is **DENIED** in all other respects with prejudice, and Petitioner's September 5, 1995 judgment of conviction, under Kings County Indictment Number 5797/91, of one count each of Murder in the Second Degree (N.Y. Penal Law § 125.25[1]), Reckless Endangerment in the First Degree (N.Y. Penal Law § 120.25), and Criminal Possession of a

Weapon in the Second Degree (N.Y. Penal Law former § 265.03) shall not be disturbed, except as provided in paragraph 1 of this **ORDER**,

3. Petitioner shall obtain no relief upon his Amended Petition other than the relief provided in paragraph 1 of this **ORDER**,

4. Petitioner unconditionally waives his right to challenge the validity of any and all aspects of his arrest, prosecution, trial, and judgment of conviction under Kings County Indictment Number 5797/91, in any forum, state or federal, judicial or administrative, at any time following the entry of this **ORDER**, except as provided in paragraph 7, of this **ORDER**,

5. Petitioner and Respondent unconditionally waive their rights to appeal to the United States Court of Appeals for the Second Circuit from any aspect of this **ORDER**,

6. The Court retains jurisdiction to issue any further orders necessary to enforce this **ORDER**,

7. If for any reason any material term of this **ORDER** is invalidated, voided, vacated, or otherwise rendered unenforceable, either Petitioner or Respondent may reinstitute the instant proceeding before this Court. In that event, Petitioner and Respondent shall each return to the status quo existing on the day immediately preceding the date of entry of this **ORDER**.

Dated: Brooklyn, New York

Sept. 4, 2019

/S/ Frederic Block

FREDERIC BLOCK

Senior United States District Judge  
United States District Court,  
Eastern District of New York